

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
FILE NO. 5:08-cv-00403-FL

SMD SOFTWARE, INC., a North Carolina corporation, and SITELINK SOFTWARE, LLC, a North Carolina limited liability company,

Plaintiffs,

v.

EMOVE, INC., a Nevada corporation, U-HAUL INTERNATIONAL, INC., a Nevada corporation, WEB TEAM ASSOCIATES, a Nevada corporation, and A&M ASSOCIATES, an Arizona corporation,

Defendants.

**DEFENDANT EMOVE, INC.'S AND  
DEFENDANT U-HAUL INTERNATIONAL,  
INC.'S MEMORANDUM IN SUPPORT OF  
THEIR MOTION FOR LEAVE TO FILE A  
REPLY IN SUPPORT OF THEIR MOTION  
TO COMPEL**

Defendants, EMove, Inc. and U-Haul International, Inc. (collectively “Defendants”), by and through the undersigned counsel, pursuant to Local Rule 7.1(d), hereby submit this Memorandum in Support of their Motion for Leave to File a Reply in Support of their Motion to Compel (“Defendants’ Motion”).

Defendants recognize the general prohibition against replies in discovery related disputes set forth in Local Rule 7.1(f)(2); however, Plaintiffs provided a document supplementation to Defendants on the same day they filed their Response to Defendants’ Motion, July 5, 2011 (“the July 5, 2011 Supplementation”), that renders some of Defendants’ Motion moot. Therefore, Defendants should be allowed to file a Reply that sets forth and clarifies for the Court what issues remain in dispute after the July 5, 2011 Supplementation.

Additionally, Plaintiffs’ Response raises an issue that was not addressed by Defendants’ Motion. Specifically, Plaintiffs’ contend that Defendants failed to meet and confer with

Plaintiffs regarding some of the issues set forth in Defendants' Motion and, therefore, Defendants' Motion should not be considered by the Court. Defendants strongly disagree with that contention, and believe that their Motion should be considered in its entirety so that each of Defendants' current discovery concerns can be addressed. Defendants also do not currently anticipate any further issues relating to fact discovery that will require Court intervention to arise after Defendants' Motion is addressed. Therefore, Defendants should be allowed to file a Reply that touches upon the issue that was raised for the first time in Plaintiffs' Response. *See* Local Rule 7.1(f)(1) (noting that, in the non-discovery context, replies may be appropriate to matters initially raised in a response brief).

Lastly, Plaintiffs' Response makes several allegations that Defendants contend are inaccurate. These allegations are set forth with specificity and addressed in Defendants' proposed Reply which is attached as Exhibit A to Defendants' Motion for Leave to File a Reply. Defendants want to correct those inaccuracies or, at a minimum, bring the dispute regarding those contentions to the Court's attention, so that the Court can fully address the merits of Defendants' Motion. Therefore, Defendants should be allowed to file a Reply that addresses the allegations that Defendants contend are inaccurate.

In conclusion, for each of the reasons set forth herein, Defendants should be allowed to file a brief Reply that sets forth the remaining issues for the Court and that briefly touches upon the issue that was raised for the first time in Plaintiffs' Response and the allegations in Plaintiffs' response that the Defendants contend are inaccurate.

This 13th day of July, 2011.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page

CHRISTOPHER A. PAGE  
North Carolina State Bar No. 19600  
WALTER E. BROCK, JR.  
North Carolina State Bar No. 8195  
PATRICK M. AUL  
North Carolina State Bar No. 39506  
Post Office Box 31627  
Raleigh, North Carolina 27622  
Telephone: (919) 782-6860  
E-mail: [cap@youngmoorelaw.com](mailto:cap@youngmoorelaw.com)  
*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that he electronically filed the foregoing document with the Clerk of Court using the CM/ECF system and that he served the foregoing document upon the attorneys shown below by transmittal of a Notice of Electronic Filing:

This the 13th day of July, 2011.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page  
CHRISTOPHER A. PAGE  
North Carolina State Bar No. 19600  
Post Office Box 31627  
Raleigh, North Carolina 27622  
Telephone: (919) 782-6860  
Facsimile: (919) 782-6753  
E-mail:cap@youngmoorelaw.com  
*Attorneys for Defendant*

Served on:

Luther D. Starling, Jr.  
Daughtry, Woodard, Lawrence & Starling  
Post Office Drawer 1960  
Smithfield, North Carolina 27577  
*Attorneys for Plaintiff*

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